



Sen. William R. Haine

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1 AMENDMENT TO SENATE BILL 1194

2 AMENDMENT NO. _____. Amend Senate Bill 1194 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Navigator Certification Act.

6 Section 5. Definitions. As used in this Act:

7 "Director" means the Director of Insurance.

8 "Exchange" means any health benefit exchange established
9 or operating in this State, including any exchange established
10 or operated by the United States Department of Health and Human
11 Services.

12 "Navigator" means a person or entity selected to perform
13 the activities and duties identified in 42 U.S.C. 18031(i) in
14 this State. "Navigator" includes any person or entity who
15 receives grant funds from the United States Department of
16 Health and Human Services, the State of Illinois, or an

1 exchange or private funds to perform any of the activities and
2 duties identified in 42 U.S.C. 18031(i), including, but not
3 limited to, in-person assisters and application counselors.

4 Section 10. Certificate required.

5 (a) No individual or entity shall perform, offer to
6 perform, or advertise any service as a navigator in this State
7 or receive navigator grant funding from the United States
8 Department of Health and Human Services, the State of Illinois,
9 or an exchange or private funds unless certified as a navigator
10 by the Director under this Act.

11 (b) A navigator who complies with the requirements of this
12 Act may do any of the following:

13 (1) conduct public education activities to raise
14 awareness of the availability of qualified health plans;

15 (2) distribute fair and impartial information
16 concerning enrollment in all qualified health plans
17 offered within the exchange and the availability of the
18 premium tax credits under Section 36B of the Internal
19 Revenue Code of 1986, 26 U.S.C. 36B, and cost-sharing
20 reductions under Section 1402 of the federal Patient
21 Protection and Affordable Care Act;

22 (3) facilitate enrollment in qualified health plans,
23 without suggesting that an individual select a particular
24 plan;

25 (4) provide referrals to appropriate federal and State

1 agencies for any enrollee with a grievance, complaint, or
2 question regarding their health plan or coverage or a
3 determination under such plan or coverage;

4 (5) provide information in a manner that is culturally
5 and linguistically appropriate to the needs of the
6 population being served by the exchange.

7 (c) A navigator may not:

8 (1) engage in any activities that would require an
9 insurance producer license;

10 (2) provide advice concerning the substantive
11 benefits, terms, and conditions of a particular health plan
12 or offer advice about which health plan is better or worse
13 for a particular individual or employer;

14 (3) recommend or endorse a particular health plan or
15 advise consumers about which health plan to choose;

16 (4) provide any information or services related to
17 health benefit plans or other products not offered in the
18 exchange; or

19 (5) accept any compensation or consideration that is
20 dependent, in whole or in part, on whether a person enrolls
21 in or purchases a private health benefit plan.

22 (d) Items (2), (3), and (4) of subsection (c) of this
23 Section do not apply to navigators who enroll individuals in
24 the State Medicaid program or other public programs.

25 (e) Only a person licensed as an insurance producer in this
26 State may:

- 1 (1) sell, solicit, or negotiate health insurance;
- 2 (2) provide advice concerning the substantive
- 3 benefits, terms, and conditions of a particular health plan
- 4 or offer advice about which health plan is better or worse
- 5 for a particular individual or employer; or
- 6 (3) recommend a particular health plan or advise
- 7 consumers about which health plan to choose.

8 Section 15. Application for certificate.

9 (a) An entity or individual applying for a navigator
10 certificate shall make application to the Director on a form
11 developed by the Director and declare under penalty of refusal,
12 suspension, or revocation of the certificate that the
13 statements made in the application are true, correct, and
14 complete to the best of the individual's knowledge and belief.
15 Before approving the application, the Director shall find that
16 the individual:

- 17 (1) is at least 18 years of age;
- 18 (2) resides in this State or maintains his or her
- 19 principal place of business in this State;
- 20 (3) is not disqualified due to having committed any act
- 21 that would be grounds for denial, suspension, or revocation
- 22 of a navigator certification in accordance with Section 30
- 23 of this Act;
- 24 (4) has successfully completed the federal and State
- 25 training provided by the Exchange or equivalent State

1 requirements as determined by the Department; and

2 (5) when applicable, has the written consent of the
3 Director pursuant to 18 U.S.C. 1033, or any successor
4 statute regulating crimes by or affecting persons engaged
5 in the business of insurance whose activities affect
6 interstate commerce.

7 (b) An entity that acts as a navigator, supervises the
8 activities of individual navigators, or receives funding to
9 perform such activities shall obtain a navigator entity
10 certificate. An entity applying for a navigator entity
11 certificate shall make application on a form containing the
12 information prescribed by the Director and shall list the
13 individuals acting as navigators under the entity certificate.

14 (1) The entity shall designate a certified navigator
15 responsible for the business entity's compliance with the
16 laws of this State and the Exchange.

17 (2) The entity, under penalty of revocation,
18 suspension, or other discipline prescribed by the
19 Director, shall certify that each individual completes the
20 mandatory training required by item (4) of subsection (a)
21 of Section 15 of this Act.

22 (c) The Director may require any documents deemed necessary
23 to verify the information contained in an application submitted
24 in accordance with subsections (a) and (b) of this Section.

25 (d) Entities certified as navigators shall provide the
26 Director with a list of all individual navigators that it

1 employs, supervises, or is affiliated with at renewal.

2 (e) The Director may require, in a manner determined by the
3 Director, that each entity that acts as a navigator demonstrate
4 a level of financial responsibility capable of protecting all
5 persons against the wrongful acts, misrepresentations, or
6 negligence of the navigator.

7 (f) Prior to any exchange becoming operational in this
8 State, the Director, in coordination with the exchange, shall
9 prescribe the initial training and continuing education
10 requirements for navigators.

11 (g) Certificate holders must inform the Director, in
12 writing, of a change of address within 340 days after the
13 change.

14 (h) In order to assist in the performance of the Director's
15 duties, the Director may contract with the National Association
16 of Insurance Commissioners (NAIC), or any affiliates or
17 subsidiaries that the NAIC oversees, to perform any ministerial
18 functions, including the collection of fees, related to
19 certification that the Director and the nongovernmental entity
20 may deem appropriate.

21 Section 20. Certificate renewal.

22 (a) An individual navigator and entity certificate shall be
23 valid for one year.

24 (b) A navigator may file an application for renewal of a
25 certificate in a method prescribed by the Director. Any

1 navigator who fails to timely file for certificate renewal
2 shall be charged a late fee in an amount prescribed by the
3 Director.

4 (c) Prior to the filing date for application for renewal of
5 a certificate, an individual navigator shall comply with
6 ongoing training and continuing education requirements
7 established by the Director. The navigator shall file with the
8 Director, by a method prescribed by the Director, satisfactory
9 certification of completion of the continuing education
10 requirements. Any failure to fulfill the ongoing training and
11 continuing education requirements shall result in the
12 expiration of the certificate.

13 Section 25. Navigator referrals. On contact with a person
14 who acknowledges having existing health insurance coverage
15 obtained through an insurance producer, a navigator shall refer
16 the person back to that insurance producer for information,
17 assistance, and any other services unless:

18 (1) the individual is eligible for but has not obtained
19 a federal premium subsidy and cost-sharing assistance
20 available only through an exchange;

21 (2) the insurance producer is not authorized to sell
22 health plans in an individual exchange; or

23 (3) the individual would prefer not to seek further
24 assistance from the individual's insurance producer.

25

1 Section 30. License denial, nonrenewal, or revocation.

2 (a) The Director may place on probation, suspend, revoke,
3 or refuse to issue or renew a marketplace navigator's
4 certificate or may levy civil penalty as established by
5 emergency rule.

6 (b) If an action by the Director is to nonrenew, suspend,
7 or revoke a certificate or to deny an application for a
8 certificate, then the Director shall notify the applicant or
9 certificate holder and advise, in writing, the applicant or
10 certificate holder of the reason for the suspension,
11 revocation, or denial or nonrenewal of the applicant's or
12 certificate holder's certificate. The applicant or certificate
13 holder may make written demand upon the Director within 30 days
14 after the date of mailing for a hearing before the Director to
15 determine the reasonableness of the Director's action. The
16 hearing must be held within not fewer than 20 days nor more
17 than 30 days after the mailing of the notice of hearing and
18 shall be held pursuant to Part 2402 of Title 50 of the Illinois
19 Administrative Code.

20 (c) A marketplace entity license may be suspended, revoked,
21 or refused or information turned over to the U.S. Department of
22 Health and Human Services and applicable state agencies if the
23 Director finds, after hearing, that an individual licensee's
24 violation was known or should have been known by one or more of
25 the partners, officers, or managers acting on behalf of the

1 marketplace navigator entity.

2 (d) In addition to or instead of any applicable denial,
3 suspension, or revocation of a certificate, a person may, after
4 hearing, be subject to a civil penalty in accordance with
5 emergency rules issued by the Director.

6 (e) The Director has the authority to enforce the
7 provisions of and impose any penalty or remedy authorized by
8 this Act against any person who is under investigation of or
9 charged with a violation of this Act or rules even if the
10 person's certificate has been surrendered or has lapsed by
11 operation of law.

12 (f) Upon the suspension, denial, or revocation of a
13 certificate, the certificate holder or other person having
14 possession or custody of the certificate shall promptly deliver
15 it to the Director in person or by mail. The Director shall
16 publish all suspensions, denials, or revocations after the
17 suspensions, denials, or revocations become final in a manner
18 designed to notify the public.

19 (g) A person whose certificate is revoked or whose
20 application is denied pursuant to this Section is ineligible to
21 apply for any license for 3 years after the revocation or
22 denial. A person whose certificate as a marketplace navigator
23 has been revoked, suspended, or denied may not be employed,
24 contracted, or engaged in an Exchange-related capacity during
25 the time the revocation, suspension, or denial is in effect.

1 Section 35. Reporting to the Director.

2 (a) Each navigator shall report to the Director within 30
3 calendar days after the final disposition of a matter that
4 violates the provisions set forth in this Act that results in
5 any administrative action taken against him in another
6 jurisdiction or by another governmental agency in this State.
7 The report shall include a copy of the order, consent to order,
8 or other relevant legal documents.

9 (b) Within 30 days after the initial pretrial hearing date,
10 a navigator shall report to the Director any criminal
11 prosecution of the navigator of a matter that violates the
12 provisions set forth in this Act taken in any jurisdiction. The
13 report shall include a copy of the initial complaint filed, the
14 order resulting from the hearing, and any other relevant legal
15 documents.

16 (c) An entity that acts as a navigator that terminates the
17 employment, engagement, affiliation, or other relationship
18 with an individual navigator shall notify the Director within
19 30 days following the effective date of the termination, using
20 a format prescribed by the Director, if the reason for
21 termination is one of the reasons set forth in this Act or the
22 entity has knowledge the navigator was found by a court or
23 government body to have engaged in any of the activities
24 prohibited by this Act. Upon the written request of the
25 Director, the entity shall provide additional information,
26 documents, records, or other data pertaining to the termination

1 or activity of the individual.

2 Section 40. Hospitals; hospital affiliates; All Kids
3 Application Agents.

4 (a) The requirements of this Act shall not apply to
5 hospitals or hospital affiliates or any entity or medical
6 provider enrolled with the Department of Healthcare and Family
7 Services as an All Kids Application Agent (AKAA), that do not
8 actively recruit enrollees in the Illinois Health Benefits
9 Exchange, with regard to assisting uninsured individuals
10 seeking medical care in understanding the process for enrolling
11 in the Illinois Healthcare Marketplace.

12 (b) The Director may by rule establish registration and
13 training requirements applicable to hospitals or hospital
14 affiliates or any AKAA that desire to assist uninsured
15 individuals that seek medical care to understand the process
16 for enrolling in the Illinois Health Benefits Exchange.

17 (c) No hospitals or hospital affiliates or any AKAA that
18 assists uninsured individuals that seek medical care may:

19 (1) sell, solicit, or negotiate health insurance;

20 (2) provide advice concerning the substantive
21 benefits, terms, and conditions of a particular health plan
22 or offer advice about which health plan is better or worse
23 for a particular individual or employer;

24 (3) recommend or endorse a particular health plan or
25 advise consumers about which health plan to choose; or

1 (4) provide any information or services to uninsured
2 individuals related to the purchase of health benefit plans
3 or other products not offered in the exchange.

4 (d) Nothing in this Section shall prohibit hospitals or
5 hospital affiliates or any AKAA from informing patients in
6 non-emergency situations about the provider's participation in
7 particular networks or plans in order to ensure that patients
8 can understand their payment responsibilities relating to
9 copayments, coinsurance, or deductibles.

10 (e) Nothing in this Section shall prohibit hospitals or
11 hospital affiliates or any AKAA, otherwise authorized by the
12 Department of Healthcare and Family Services to enroll
13 individuals into Medicaid, from continuing that practice in the
14 absence of rules required by this Section.

15 (f) Nothing in this Section authorizes the Director to make
16 determinations or adopt rules relating to the ability for
17 hospitals or hospital affiliates or any AKAA to enroll
18 individuals in Medicaid if those entities have otherwise been
19 authorized by the Department of Healthcare and Family Services
20 to enroll individuals into Medicaid.

21 Section 45. Other laws; rulemaking authority.

22 (a) The requirements of this Act shall not apply to any
23 individual or entity licensed as an insurance producer in this
24 State.

25 (b) Pursuant to the authority granted by this Act, the

1 Director may adopt rules as may be necessary or appropriate for
2 the administration and enforcement of this Act.

3 Section 97. Severability. The provisions of this Act are
4 severable under Section 1.31 of the Statute on Statutes.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law."